

United States Senate

WASHINGTON, DC 20510

March 17, 2009

Honorable Timothy Geithner, Secretary
U.S. Department of the Treasury
Washington, D.C. 20220

Dear Mr. Secretary:

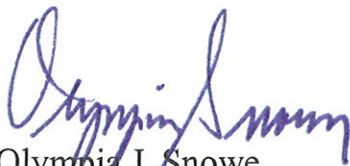
We are writing to urge you to endorse our legislation to force recipients of taxpayer money from the Troubled Asset Relief Program (TARP) to pay back excessive bonuses or face a stiff tax penalty. Our bill will be introduced this week and, judging by the level of public outrage over AIG's recklessness in paying out \$165 million in executive bonuses last week, we expect Congress to move quickly to address this abuse of the public trust.

The original Wall Street rescue legislation approved by Congress last fall contained provisions to prevent golden parachutes and excessive bonuses. For various reasons, that law has been ineffective. The American Recovery and Reinvestment Act contained provisions that required you to review bonuses and "seek to negotiate" with TARP recipients regarding appropriate levels of compensation. This does not appear to have produced any results.


Thus, as we discussed, we will introduce legislation to impose a 35% excise tax on bonuses in excess of \$25,000. Notably, the Senate unanimously adopted a version of our proposal during debate on the stimulus legislation earlier this year. A summary of the bill is attached and we invite you and your staff to publicly support our efforts to enact this measure as soon as possible.

We look forward to hearing from you in the very near future.

Sincerely,



Olympia J. Snowe
UNITED STATES SENATOR



Ron Wyden
UNITED STATES SENATOR

cc: Hon. Larry Summers

Summary of Wyden-Snowe TARP Excessive Bonus Recovery Act

A financial institution that took taxpayer money from the Troubled Asset Relief Program (TARP) and paid bonuses to any of its employees of more than \$25,000 for the employee's work for any portion of 2008 must pay back the full amount of these Excessive Bonuses within 120 days of the date of enactment of this legislation. If the institution doesn't pay back the amount of these Excessive Bonuses, it will be subject to a federal excise tax equal to 35 percent of the federal income tax deduction that the institution claimed for the Excessive Bonuses. The excise tax shall be payable on the later of (i) 120 days following the enactment of this legislation or (ii) the normal due date for the institution's federal income tax return.

Here's how it would work: Take the case of AIG, a company that lost \$62 billion in the 4th quarter of 2008. AIG took \$70 billion in TARP money – more than any other company. According to news reports, AIG has already paid \$55 million in bonuses to its employees and is slated to pay another \$395 million in bonuses in 2009 for a total of \$450 million.

More than \$400 million of these bonuses would go to employees of AIG Financial Products – the unit of AIG that engaged in derivatives trading that led to AIG's financial distress and near collapse. President Obama described this trading as "recklessness and greed" and stated "it's hard to understand how derivatives traders at AIG warranted any bonuses."

Under the Wyden-Snowe legislation, AIG would have to pay back to the Federal government within 120 days the portion of that \$450 million it paid in bonuses that involved bonuses greater than \$25,000. If AIG didn't pay back the taxpayers for the amount of its Excessive Bonuses, AIG would have to pay a 35% tax on what it paid in Excessive Bonuses.

Possible Questions and Suggested Answers

Doesn't the legislation require financial firms to break contracts with their employees and take back bonuses that they paid their workers?

- A. No, the legislation does not in any way affect contracts with employees or the bonuses that employees received. The employees can keep their bonuses. But the firms that paid the bonuses either have to repay part of the money they've borrowed from the taxpayers or pay a tax on excessive bonuses. Taxpayers should not be subsidizing excessive bonuses.

Doesn't the legislation impose a retroactive tax on bonuses paid in 2008?

- A. No, the Chief of Staff of the Joint Committee on Taxation wrote a letter stating that the legislation should not be considered a retroactive tax. His letter states that because the financial institutions "can avoid the tax completely by repurchasing shares they sold to the United States; the excise tax would be imposed, not on prior bonuses, but on the taxpayer's

affirmative post-enactment decision not to repurchase those shares at the same price that the shares were sold to the United States.” In other words, it is not a retroactive tax on bonuses; it is a tax on a future decision by financial institutions not to repay the taxpayers part of the investment the Federal government made in those companies.

If financial institutions have a choice between paying back the full amount of the bonuses or only paying a 35% excise tax on the bonuses, won't everybody just pay the tax instead of repaying?

- A. It's likely that most firms would pay the tax instead of repaying the Excessive Bonus amounts right away. But to be clear: every one of the companies that got TARP money and paid Excessive Bonuses will have to pay that money back in full along with the rest of the money they got from taxpayers. But if they don't pay back the Excessive Bonus amounts right away, the companies will also have to pay an excise tax equal to 35% of the Excessive Bonuses.

For bonuses greater than \$25,000, does the excise tax apply to the portion of the bonus over \$25,000 or to the entire bonus?

- A. To the portion over \$25,000